



## DECLARATION

As a below named inventor, I hereby declare that:

My residence, post office and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or the below named inventors believe they are the original, first and joint inventors (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled **SPINAL IMPLANT**, the specification of which:

is attached herewith.

was filed on August 1, 2003 as Application Serial No. 10/633,371.

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose to the Patent and Trademark Office all information known to me to be material to patentability of the subject matter claimed in this application, as "materiality" is defined in Title 37, Code of Federal Regulations, § 1.56.

I hereby claim foreign priority benefits under Title 35, United States Code, § 119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

### PRIOR FOREIGN APPLICATION(S)

#### Priority Claimed

N/A (Number)	(Country)	(Date Filed)	Yes/No
N/A (Number)	(Country)	(Date Filed)	Yes/No

I hereby claim the benefit under Title 35, United States Code, § 120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose all information known to me to be material to the patentability of the subject matter claimed in this application, as "materiality" is defined in Title 37, Code of Federal Regulations, § 1.56, which become available between the filing date of the prior application and the national or PCT international filing date of this application:

N/A (Application Serial No.)	(Filing Date)	Pending (Status)
N/A (Application Serial No.)	(Filing Date)	Pending (Status)

I hereby claim the benefit under title 35, United States code §119(e) of any United States provisional application(s) listed below:

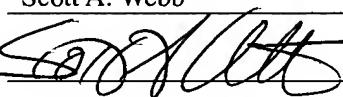
N/A  
(Application Serial No.) (Filing Date)

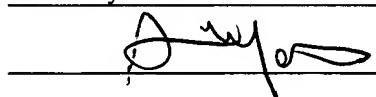
N/A  
(Application Serial No.) (Filing Date)

Please address all correspondence in connection with this application to: 1) customer number 35690; and 2)

Eric B. Meyertons  
MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.  
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I hereby declare that all statements made of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Inventor's Full Name: Scott A. Webb  
Inventor's Signature:  Date: 12/17/03  
Country of Residence: USA Citizenship: USA  
Residence Address: 9306 Silver Moon Rd Langhorne 33777  
(Include number, street name, city, state and zip code)

Inventor's Full Name: Anthony P. Moreno  
Inventor's Signature:  Date: 12/17/03  
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Inventor's Full Name: Margaret E. Mitchell  
Inventor's Signature: Margaret E. Mitchell Date: 12/16/03  
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Inventor's Full Name: Aaron C. Smith  
Inventor's Signature: Aaron C. Smith Date: 22 DEC 03  
Country of Residence: USA Citizenship: USA  
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## PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 10/633,371  
 Confirmation No.: 5117  
 Filed: August 1, 2003  
 Inventor(s):  
 Webb et al.

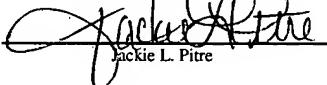
Title: SPINAL IMPLANT

§ Examiner: Unknown  
 § Art Unit: Unknown  
 § Atty. Dkt. No: 5259-14600

CERTIFICATE OF MAILING  
UNDER 37 C.F.R. § 1.8

DATE OF DEPOSIT: 2/23/04

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail on the date indicated above and is addressed to:  
 Commissioner for Patents  
 Alexandria, VA 22313-1450

  
 Jackie L. Pitre

ELECTION UNDER 37 C.F.R. §§ 3.71 AND 3.73 AND POWER OF ATTORNEY

Commissioner for Patents  
 P.O. Box 1450  
 Alexandria, VA 22313-1450

Sir:

The undersigned, being Assignee of record of the entire interest in the above-identified application by virtue of an assignment recorded in the United States Patent and Trademark Office as set forth below, hereby elects, under 37 C.F.R. § 3.71, to prosecute the application to the exclusion of the inventors.

The Assignee hereby revokes any previous Powers of Attorney and appoints: (1) the practitioners at Customer Number 35690; and (2)

Mark K. Brightwell	Reg. No. 47,446
Kay A. Colapret	Reg. No. 52,759
Steve J. Curran	Reg. No. 50,664
Mark R. DeLuca	Reg. No. 44,649
Heather L. Flanagan	Reg. No. 54,101
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Erik A. Heter	Reg. No. 50,652
Jeffrey C. Hood	Reg. No. 35,198
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Gareth Sampson	Reg. No. 52,191
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Mark S. Williams	Reg. No. 50,658

each an attorney or agent of the firm of MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C., as its attorney or agent for so long as they remain with such firm, with full power of substitution and revocation, to prosecute the application, to make alterations and amendments therein, to transact all business in the Patent and Trademark Office in connection therewith, and to receive any Letters Patent, and for one year after issuance of such Letters Patent to file any request for a certificate of correction that may be deemed appropriate.

Pursuant to 37 C.F.R. § 3.73, the undersigned has reviewed the evidentiary documents, specifically the Assignment to Spinal Concepts, Inc., referenced below, and certify that to the best of my knowledge and belief, title remains in the name of the Assignee.

Please direct all communications as follows:

Eric B. Meyertons, Esq.  
MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.  
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ASSIGNEE:

SPINAL CONCEPTS, INC.

By: Elk Up

Title: *Chief Technology Officer*

Date: \_\_\_\_\_  
ASSIGNMENT: x Enclosed for recording